

Senate Study Bill 1052 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

A BILL FOR

1 An Act relating to credit for reinsurance, including
2 transition, applicability, and effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CREDIT FOR REINSURANCE

1
2
3 Section 1. NEW SECTION. 521B.101 Purpose — legislative
4 intent.

5 1. The purpose of this chapter is to protect the interests
6 of insureds, claimants, ceding insurers, assuming insurers, and
7 the public generally.

8 2. The general assembly declares its intent to ensure
9 adequate regulation of insurers and reinsurers and adequate
10 protection for those to whom insurers and reinsurers owe
11 obligations.

12 3. The general assembly declares that the matters contained
13 in this chapter are fundamental to the business of insurance in
14 accordance with 15 U.S.C. § 1011 – 1012.

15 Sec. 2. NEW SECTION. 521B.102 Credit allowed certain
16 domestic ceding insurers.

17 Credit for reinsurance shall be allowed a domestic ceding
18 insurer as either an asset or a reduction from liability on
19 account of reinsurance ceded only when the reinsurer meets the
20 requirements of subsection 1, 2, 3, 4, 5, or 6. Credit shall be
21 allowed under subsection 1, 2, or 3 only respecting cessions of
22 those kinds or classes of business which the assuming insurer
23 is licensed or otherwise permitted to write or assume in the
24 insurer's state of domicile or, in the case of a United States
25 branch of an alien assuming insurer, in the state through which
26 the insurer is entered and licensed to transact insurance or
27 reinsurance. Credit shall be allowed under subsection 3 or 4
28 only if the applicable requirements of subsection 7 have been
29 satisfied.

30 1. Credit shall be allowed when the reinsurance is ceded to
31 an assuming insurer that is licensed to transact insurance or
32 reinsurance in this state.

33 2. Credit shall be allowed when the reinsurance is ceded
34 to an assuming insurer that is accredited by the commissioner
35 as a reinsurer in this state. In order to be eligible

1 for accreditation, an assuming insurer must do all of the
2 following:

3 *a.* File with the commissioner evidence of the assuming
4 insurer's submission to this state's jurisdiction.

5 *b.* Submit to this state's authority to examine the assuming
6 insurer's books and records.

7 *c.* Be licensed to transact insurance or reinsurance in at
8 least one state, or in the case of a United States branch of
9 an alien assuming insurer, be entered through and licensed to
10 transact insurance or reinsurance in at least one state.

11 *d.* File annually with the commissioner a copy of the
12 assuming insurer's annual statement filed with the insurance
13 department of the assuming insurer's state of domicile and a
14 copy of the assuming insurer's most recent audited financial
15 statement.

16 *e.* Demonstrate to the satisfaction of the commissioner that
17 the assuming insurer has adequate financial capacity to meet
18 the assuming insurer's reinsurance obligations and is otherwise
19 qualified to assume reinsurance from domestic insurers. An
20 assuming insurer is deemed to meet this requirement as of the
21 time of the assuming insurer's application if the assuming
22 insurer maintains a surplus as regards policyholders in an
23 amount of not less than twenty million dollars and the assuming
24 insurer's accreditation has not been denied by the commissioner
25 within ninety days after submission of the assuming insurer's
26 application.

27 3. *a.* Credit shall be allowed when the reinsurance is ceded
28 to an assuming insurer that is domiciled in, or in the case of
29 a United States branch of an alien assuming insurer, is entered
30 through, a state that employs standards regarding credit for
31 reinsurance that are substantially similar to those applicable
32 under this chapter and the assuming insurer or United States
33 branch of an alien assuming insurer does all of the following:

34 (1) Maintains a surplus as regards policyholders in an
35 amount of not less than twenty million dollars.

1 (2) Submits to the authority of this state to examine the
2 assuming insurer's books and records.

3 b. The requirement of paragraph "a", subparagraph (1) does
4 not apply to reinsurance ceded and assumed pursuant to pooling
5 arrangements among insurers in the same holding company system.

6 4. a. Credit shall be allowed when the reinsurance is
7 ceded to an assuming insurer that maintains a trust fund
8 in a qualified United States financial institution, as
9 defined in section 521B.104, subsection 2, for payment of
10 the valid claims of the assuming insurer's United States
11 ceding insurers, their assigns, and successors in interest.
12 To enable the commissioner to determine the sufficiency of
13 the trust fund, the assuming insurer shall report annually
14 to the commissioner information substantially the same as
15 that required to be reported on the national association of
16 insurance commissioners' annual statement form by licensed
17 insurers. The assuming insurer shall submit to examination of
18 the assuming insurer's books and records by the commissioner
19 and bear the expense of examination.

20 b. Credit for reinsurance shall not be granted under
21 this subsection unless all of the following conditions are
22 satisfied:

23 (1) The form of the trust and any amendments to the trust
24 have been approved by either of the following:

25 (a) The commissioner of the state where the trust is
26 domiciled.

27 (b) The commissioner of another state who, pursuant to
28 the terms of the trust instrument, has accepted principal
29 regulatory oversight of the trust.

30 (2) The form of the trust and any trust amendments are
31 filed with the commissioner of every state in which the ceding
32 insurer's beneficiaries of the trust are domiciled. The trust
33 instrument shall provide that contested claims are valid and
34 enforceable upon the final order of any court of competent
35 jurisdiction in the United States. The trust shall vest legal

1 title to the trust's assets in its trustees for the benefit
2 of the assuming insurer's United States ceding insurers,
3 their assigns, and successors in interest. The trust and the
4 assuming insurer shall be subject to examination as determined
5 by the commissioner.

6 (3) The trust remains in effect for as long as the assuming
7 insurer has outstanding obligations due under the reinsurance
8 agreements subject to the trust. No later than February 28
9 of each year, the trustee of the trust shall report to the
10 commissioner in writing the balance of the trust and list
11 the trust's investments at the preceding year-end, and shall
12 certify the date of termination of the trust, if so planned, or
13 certify that the trust will not expire prior to the following
14 December 31.

15 c. The following requirements apply to the following
16 categories of assuming insurer:

17 (1) The trust fund for a single assuming insurer shall
18 consist of funds in trust in an amount not less than the
19 assuming insurer's liabilities attributable to reinsurance
20 ceded by United States ceding insurers, and in addition, the
21 assuming insurer shall maintain a trusteed surplus of not less
22 than twenty million dollars, except as provided in subparagraph
23 (2).

24 (2) At any time after an assuming insurer has permanently
25 discontinued underwriting new business secured by the trust
26 for at least three full years, the commissioner with principal
27 regulatory oversight of the trust may authorize a reduction
28 in the required trusteed surplus, but only after a finding,
29 based on an assessment of the risk, that the new required
30 trusteed surplus level is adequate for the protection of
31 United States ceding insurers, policyholders, and claimants
32 in light of reasonably foreseeable adverse loss development.
33 The risk assessment may involve an actuarial review, including
34 an independent analysis of reserves and cash flows, and shall
35 consider all material risk factors, including, when applicable,

1 the lines of business involved, the stability of the incurred
2 loss estimates, and the effect of the surplus requirements on
3 the assuming insurer's liquidity or solvency. The minimum
4 required trusted surplus shall not be reduced to an amount
5 less than thirty percent of the assuming insurer's liabilities
6 attributable to reinsurance ceded by United States ceding
7 insurers covered by the trust.

8 (3) In the case of a group including incorporated and
9 individual unincorporated underwriters, all of the following
10 requirements are met:

11 (a) For reinsurance ceded under reinsurance agreements with
12 an inception, amendment, or renewal date on or after January
13 1, 1993, the trust shall consist of a trusted account in
14 an amount not less than the respective underwriters' several
15 liabilities attributable to business ceded by United States
16 domiciled ceding insurers to any underwriter of the group.

17 (b) For reinsurance ceded under reinsurance agreements
18 with an inception date on or before December 31, 1992, and
19 not amended or renewed after that date, notwithstanding the
20 other provisions of this chapter, the trust shall consist of
21 a trusted account in an amount not less than the respective
22 underwriters' several insurance and reinsurance liabilities
23 attributable to business written in the United States.

24 (c) In addition to the trusts described in subparagraph
25 divisions (a) and (b), the group shall maintain in trust a
26 trusted surplus of which one hundred million dollars shall be
27 held jointly for the benefit of the United States domiciled
28 ceding insurers of any member of the group for all years of
29 account.

30 (d) The incorporated members of the group shall not be
31 engaged in any business other than underwriting as a member of
32 the group and shall be subject to the same level of regulation
33 and solvency control by the group's domiciliary regulator as
34 are the unincorporated members of the group.

35 (e) Within ninety days after its financial statements are

1 due to be filed with the group's domiciliary regulator, the
2 group shall provide to the commissioner an annual certification
3 by the group's domiciliary regulator of the solvency of each
4 underwriter member, or if a certification is unavailable,
5 financial statements, prepared by independent public
6 accountants, of each underwriter member of the group.

7 (4) In the case of a group of incorporated underwriters
8 under common administration, the group shall meet all of the
9 following requirements:

10 (a) Have continuously transacted an insurance business
11 outside the United States for at least three years immediately
12 prior to making application for accreditation.

13 (b) Maintain aggregate policyholders' surplus of at least
14 ten billion dollars.

15 (c) Maintain a trust fund in an amount not less than the
16 group's several liabilities attributable to business ceded by
17 United States domiciled ceding insurers to any member of the
18 group pursuant to reinsurance contracts issued in the name of
19 the group.

20 (d) In addition, maintain a joint trusted surplus of
21 which one hundred million dollars shall be held jointly for
22 the benefit of United States domiciled ceding insurers of
23 any member of the group as additional security for these
24 liabilities.

25 (e) Within ninety days after the group's financial
26 statements are due to be filed with the group's domiciliary
27 regulator, make available to the commissioner an annual
28 certification of each underwriter member's solvency by the
29 member's domiciliary regulator and financial statements of
30 each underwriter member of the group prepared by the group's
31 independent public accountant.

32 5. Credit shall be allowed when the reinsurance is ceded to
33 an assuming insurer that has been certified by the commissioner
34 as a reinsurer in this state and the assuming reinsurer secures
35 its obligations in accordance with the following requirements:

1 *a.* In order to be eligible for certification, the assuming
2 insurer shall meet all of the following requirements:

3 (1) The assuming insurer shall be domiciled and licensed to
4 transact insurance or reinsurance in a qualified jurisdiction,
5 as determined by the commissioner pursuant to paragraph "c".

6 (2) The assuming insurer shall maintain minimum capital and
7 surplus, or its equivalent, in an amount to be determined by
8 the commissioner pursuant to rule.

9 (3) The assuming insurer shall maintain financial strength
10 ratings from two or more rating agencies deemed acceptable by
11 the commissioner pursuant to rule.

12 (4) The assuming insurer shall agree to submit to the
13 jurisdiction of this state, appoint the commissioner as the
14 assuming insurer's agent for service of process in this state,
15 and agree to provide security for one hundred percent of the
16 assuming insurer's liabilities attributable to reinsurance
17 ceded by United States ceding insurers, if the assuming insurer
18 resists enforcement of a final United States judgment.

19 (5) The assuming insurer shall agree to meet applicable
20 information filing requirements as determined by the
21 commissioner, both with respect to an initial application for
22 certification and on an ongoing basis.

23 (6) The assuming insurer shall satisfy any other
24 requirements for certification deemed relevant by the
25 commissioner.

26 *b.* An association including incorporated and individual
27 unincorporated underwriters may be a certified reinsurer. In
28 order to be eligible for certification, the association shall
29 satisfy the requirements of paragraph "a" and in addition
30 satisfy all of the following requirements:

31 (1) The association shall satisfy the association's minimum
32 capital and surplus requirements through the capital and
33 surplus equivalents (net of liabilities) of the association and
34 its members, which shall include a joint central fund that may
35 be applied to any unsatisfied obligation of the association or

1 any of its members, in an amount determined by the commissioner
2 to provide adequate protection.

3 (2) The incorporated members of the association shall
4 not be engaged in any business other than underwriting as a
5 member of the association and shall be subject to the same
6 level of regulation and solvency control by the association's
7 domiciliary regulator as are the unincorporated members of the
8 association.

9 (3) Within ninety days after the association's financial
10 statements are due to be filed with the association's
11 domiciliary regulator, the association shall provide to the
12 commissioner an annual certification by the association's
13 domiciliary regulator, of the solvency of each underwriter
14 member, or if a certification is unavailable, financial
15 statements, prepared by an independent public accountant, of
16 each underwriter member of the association.

17 c. The commissioner shall create and publish a list of
18 qualified jurisdictions under which an assuming insurer
19 licensed and domiciled in such jurisdiction is eligible to be
20 considered for certification by the commissioner as a certified
21 reinsurer.

22 (1) In order to determine whether the domiciliary
23 jurisdiction of a non-United States insurer is eligible to
24 be recognized as a qualified jurisdiction, the commissioner
25 shall evaluate the appropriateness and effectiveness of the
26 reinsurance supervisory system of the jurisdiction, both
27 initially and on an ongoing basis, and consider the rights,
28 benefits, and the extent of reciprocal recognition afforded
29 by the non-United States jurisdiction to reinsurers licensed
30 and domiciled in the United States. In order to be recognized
31 as a qualified jurisdiction, a jurisdiction must agree to
32 share information and to cooperate with the commissioner with
33 respect to all certified reinsurers domiciled within that
34 jurisdiction. A jurisdiction shall not be recognized as a
35 qualified jurisdiction if the commissioner has determined

1 that the jurisdiction does not adequately and promptly
2 enforce final United States judgments and arbitration awards.
3 Additional factors may be considered in the discretion of the
4 commissioner.

5 (2) A list of qualified jurisdictions shall be published
6 through the national association of insurance commissioners'
7 committee process. The commissioner shall consider this list
8 in determining qualified jurisdictions. If the commissioner
9 recognizes a jurisdiction as qualified that does not appear on
10 the list of qualified jurisdictions, the commissioner shall
11 provide thoroughly documented justification for the recognition
12 in accordance with criteria to be developed by rule.

13 (3) United States jurisdictions that meet the requirements
14 for accreditation under the national association of insurance
15 commissioners' financial standards and accreditation program
16 shall be recognized as qualified jurisdictions.

17 (4) If a certified reinsurer's domiciliary jurisdiction
18 ceases to be a qualified jurisdiction, the commissioner may,
19 in the commissioner's discretion, suspend the reinsurer's
20 certification indefinitely, in lieu of revocation.

21 *d.* The commissioner shall assign a rating to each
22 certified reinsurer, giving due consideration to the financial
23 strength ratings that have been assigned by rating agencies
24 deemed acceptable to the commissioner pursuant to rule. The
25 commissioner shall publish a list of all certified reinsurers
26 and their ratings.

27 *e.* A certified reinsurer shall secure obligations assumed
28 from United States ceding insurers under this subsection at
29 a level consistent with the certified reinsurer's rating, as
30 specified in rules adopted by the commissioner.

31 (1) In order for a domestic ceding insurer to qualify
32 for full financial statement credit for reinsurance ceded
33 to a certified reinsurer, the certified reinsurer shall
34 maintain security in a form acceptable to the commissioner and
35 consistent with the provisions of section 521B.103, or in a

1 multibeneficiary trust in accordance with subsection 4, except
2 as otherwise provided in this subsection.

3 (2) If a certified reinsurer maintains a trust to fully
4 secure its obligations subject to subsection 4, and chooses to
5 secure its obligations incurred as a certified reinsurer in the
6 form of a multibeneficiary trust, the certified reinsurer shall
7 maintain separate trust accounts for its obligations incurred
8 under reinsurance agreements issued or renewed as a certified
9 reinsurer with reduced security as permitted by this subsection
10 or comparable laws of other United States jurisdictions and
11 for its obligations subject to subsection 4. It shall be a
12 condition to the grant of certification under this subsection
13 that the certified reinsurer shall bind itself, by the language
14 of the trust and by agreement with the commissioner which has
15 principal regulatory oversight of each such trust account,
16 to fund, upon termination of any such trust account, any
17 deficiency of any other trust account out of the remaining
18 surplus of the terminated trust account.

19 (3) The minimum trustee surplus requirements provided
20 in subsection 4 are not applicable with respect to a
21 multibeneficiary trust maintained by a certified reinsurer for
22 the purpose of securing obligations under this subsection,
23 except that such a multibeneficiary trust shall maintain a
24 minimum trustee surplus of ten million dollars.

25 (4) With respect to obligations incurred by a certified
26 reinsurer under this subsection, if the security is
27 insufficient, the commissioner shall reduce the allowable
28 credit by an amount proportionate to the deficiency, and the
29 commissioner has the discretion to impose further reductions
30 in allowable credit upon finding that there is a material risk
31 that the certified reinsurer's obligations will not be paid in
32 full when due.

33 (5) For purposes of this subsection, a certified reinsurer
34 whose certification has been terminated for any reason shall be
35 treated as a certified reinsurer required to secure all of its

1 obligations.

2 (a) As used in this subsection, the term "terminated"
3 includes revocation, suspension, voluntary surrender, and
4 inactive status.

5 (b) If the commissioner continues to assign a higher rating
6 to a certified reinsurer as permitted by other provisions
7 of this subsection, this requirement does not apply to a
8 certified reinsurer in inactive status or to a reinsurer whose
9 certification has been suspended.

10 *f.* If an assuming insurer applying for certification as a
11 reinsurer in this state has been certified as a reinsurer in
12 another jurisdiction accredited by the national association of
13 insurance commissioners, the commissioner has the discretion
14 to defer to that jurisdiction's certification, and has
15 the discretion to defer to the rating assigned by that
16 jurisdiction, and the assuming insurer shall be considered to
17 be a certified reinsurer in this state.

18 *g.* A certified reinsurer that ceases to assume new
19 business in this state may request to maintain the reinsurer's
20 certification in inactive status in order to qualify for
21 a reduction in the amount of security required for the
22 reinsurer's in-force business. An inactive certified reinsurer
23 shall continue to comply with all applicable requirements
24 of this subsection, and the commissioner shall assign the
25 reinsurer a rating that takes into account, if relevant, the
26 reasons why the reinsurer is not assuming new business.

27 6. Credit shall be allowed when reinsurance is ceded to
28 an assuming insurer that does not meet the requirements of
29 subsection 1, 2, 3, 4, or 5, but only as to the insurance
30 of risks located in jurisdictions where the reinsurance is
31 required by applicable law or regulation of that jurisdiction.

32 7. *a.* If the assuming insurer is not licensed, accredited,
33 or certified to transact insurance or reinsurance in this
34 state, the credit permitted by subsections 3 and 4 shall not be
35 allowed unless the assuming insurer agrees in the reinsurance

1 agreements to do all of the following:

2 (1) In the event of the failure of the assuming insurer
3 to perform its obligations under the terms of the reinsurance
4 agreement, the assuming insurer, at the request of the ceding
5 insurer, will submit to the jurisdiction of any court of
6 competent jurisdiction in any state of the United States,
7 will comply with all requirements necessary to give the court
8 jurisdiction, and will abide by the final decision of the
9 court or of any appellate court in the event of any appeal,
10 concerning such failure.

11 (2) The assuming insurer will designate the commissioner
12 or a designated attorney as its true and lawful attorney to
13 receive lawful process in any action, suit, or proceeding
14 instituted by or on behalf of the ceding insurer.

15 *b.* This subsection is not intended to conflict with or
16 override the obligation of the parties to a reinsurance
17 agreement to arbitrate their disputes if the obligation to
18 arbitrate is created in the agreement.

19 8. If the assuming insurer does not meet the requirements of
20 subsection 1, 2, or 3, the credit permitted by subsection 4 or
21 5 shall not be allowed unless the assuming insurer agrees in a
22 trust agreement to satisfy the following conditions:

23 *a.* Notwithstanding any other provisions contained in the
24 trust instrument, if the trust fund is inadequate because the
25 trust fund contains an amount less than the amount required by
26 subsection 4, paragraph "c", or if the grantor of the trust has
27 been declared insolvent or has been placed into receivership,
28 rehabilitation, liquidation, or similar proceedings under
29 the laws of the trust's state or country of domicile, the
30 trustee shall comply with an order of the commissioner with
31 regulatory oversight over the trust or with an order of a court
32 of competent jurisdiction directing the trustee to transfer
33 all of the assets of the trust fund to the commissioner with
34 regulatory oversight over the trust.

35 *b.* The assets of the trust shall be distributed, and claims

1 shall be filed and valued, by the commissioner with regulatory
2 oversight over the trust in accordance with the laws of the
3 state in which the trust is domiciled that are applicable to
4 the liquidation of domestic insurance companies.

5 *c.* If the commissioner with regulatory oversight over the
6 trust determines that the assets of the trust fund or any part
7 of the trust fund are not necessary to satisfy the claims of
8 the United States ceding insurers of the grantor of the trust,
9 the assets of the trust or any part of those assets shall be
10 returned by the commissioner with regulatory oversight over the
11 trust to the trustee for distribution in accordance with the
12 trust agreement.

13 *d.* The grantor shall waive any right otherwise available to
14 the grantor under United States law that is inconsistent with
15 the provisions of this subsection.

16 9. If an accredited or certified reinsurer ceases to
17 meet the requirements of this section for accreditation or
18 certification, the commissioner may suspend or revoke the
19 reinsurer's accreditation or certification.

20 *a.* The commissioner shall give the reinsurer notice and
21 opportunity for hearing prior to such suspension or revocation.
22 The suspension or revocation shall not take effect until after
23 the commissioner's order on hearing unless one of the following
24 applies:

25 (1) The reinsurer waives its right to hearing.

26 (2) The commissioner's order is based on regulatory action
27 by the reinsurer's domiciliary jurisdiction or by the voluntary
28 surrender or termination of the reinsurer's eligibility to
29 transact insurance or reinsurance business in the reinsurer's
30 domiciliary jurisdiction or in the primary certifying state of
31 the reinsurer under subsection 5, paragraph "f".

32 (3) The commissioner finds that an emergency requires
33 immediate action and a court of competent jurisdiction has not
34 stayed the commissioner's action.

35 *b.* While a reinsurer's accreditation or certification is

1 suspended, a reinsurance contract issued or renewed after the
2 effective date of the suspension does not qualify for credit
3 except to the extent that the reinsurer's obligations under the
4 reinsurance contract are secured in accordance with section
5 521B.103. If a reinsurer's accreditation or certification is
6 revoked, credit for reinsurance shall not be granted after the
7 effective date of the revocation except to the extent that
8 the reinsurer's obligations under the contract are secured
9 in accordance with subsection 5, paragraph "e", or section
10 521B.103.

11 10. a. A domestic ceding insurer shall take steps to
12 manage its reinsurance recoverables proportionate to its own
13 book of business. A domestic ceding insurer shall notify the
14 commissioner within thirty days after reinsurance recoverables
15 from any single assuming insurer, or group of affiliated
16 assuming insurers, exceeds fifty percent of the domestic ceding
17 insurer's last reported surplus to policyholders, or after it
18 is determined that reinsurance recoverables from any single
19 assuming insurer, or group of affiliated assuming insurers,
20 is likely to exceed this limit. The notification shall
21 demonstrate that the exposure is safely managed by the domestic
22 ceding insurer.

23 b. A domestic ceding insurer shall take steps to diversify
24 its reinsurance program. A domestic ceding insurer shall
25 notify the commissioner within thirty days after ceding to
26 any single assuming insurer, or group of affiliated assuming
27 insurers, more than twenty percent of the domestic ceding
28 insurer's gross written premium in the prior calendar year,
29 or after the domestic ceding insurer has determined that the
30 reinsurance ceded to any single assuming insurer, or group of
31 affiliated assuming insurers, is likely to exceed this limit.
32 The notification shall demonstrate that the exposure is safely
33 managed by the domestic ceding insurer.

34 Sec. 3. NEW SECTION. 521B.103 Limited credit allowed other
35 domestic ceding insurers.

1 1. An asset or a reduction from liability for reinsurance
2 ceded by a domestic insurer to an assuming insurer not meeting
3 the requirements of section 521B.102, shall be allowed in an
4 amount not exceeding the liabilities carried by the ceding
5 insurer. The reduction shall be in the amount of funds held
6 by or on behalf of the ceding insurer, including funds held in
7 trust for the ceding insurer, under a reinsurance contract with
8 the assuming insurer as security for the payment of obligations
9 under the contract, if the security is held in the United
10 States subject to withdrawal solely by, and under the exclusive
11 control of, the ceding insurer, or in the case of a trust, held
12 in a qualified United States financial institution as defined
13 in section 521B.104, subsection 2.

14 2. The security may be in the form of any of the following:

15 a. Cash.

16 b. A security listed by the securities valuation office of
17 the national association of insurance commissioners, including
18 those securities deemed exempt from filing as defined by the
19 purposes and procedures manual of the securities valuation
20 office and those securities qualifying as admitted assets.

21 c. (1) Clean, irrevocable, unconditional letters of credit,
22 issued or confirmed by a qualified United States financial
23 institution, as defined in section 521B.104, subsection 1,
24 effective no later than December 31 of the year for which the
25 filing is being made, and in the possession of, or in trust
26 for, the ceding insurer on or before the filing date of the
27 ceding insurer's annual statement.

28 (2) A letter of credit meeting applicable standards of
29 issuer acceptability as of the date of the letter of credit's
30 issuance or confirmation shall, notwithstanding the issuing or
31 confirming institution's subsequent failure to meet applicable
32 standards of issuer acceptability, continue to be acceptable
33 as security until the expiration, extension, renewal,
34 modification, or amendment of the letter of credit, whichever
35 occurs first.

1 *d.* Any other form of security acceptable to the
2 commissioner.

3 Sec. 4. NEW SECTION. **521B.104 Qualified United States**
4 **financial institutions.**

5 1. For purposes of section 521B.103, subsection 2,
6 paragraph "*c*", a "*qualified United States financial institution*"
7 means an institution that meets all of the following
8 requirements:

9 *a.* Is organized, or in the case of a United States office of
10 a foreign banking organization is licensed, under the laws of
11 the United States or of any state of the United States.

12 *b.* Is regulated, supervised, and examined by United States
13 federal or state authorities having regulatory authority over
14 banks and trust companies.

15 *c.* Has been determined by either the commissioner or the
16 securities valuation office of the national association of
17 insurance commissioners to meet the standards of financial
18 condition and standing as are considered necessary and
19 appropriate to regulate the quality of financial institutions
20 whose letters of credit will be acceptable to the commissioner.

21 2. For purposes of those provisions of this chapter
22 specifying the institutions that are eligible to act as a
23 fiduciary of a trust, a "*qualified United States financial*
24 *institution*" means an institution that meets all of the
25 following requirements:

26 *a.* Is organized, or in the case of a United States branch or
27 agency office of a foreign banking organization is licensed,
28 under the laws of the United States or of any state of the
29 United States, and has been granted authority to operate with
30 fiduciary powers.

31 *b.* Is regulated, supervised, and examined by federal or
32 state authorities having regulatory authority over banks and
33 trust companies.

34 Sec. 5. NEW SECTION. **521B.105 Rules.**

35 The commissioner may adopt rules, pursuant to chapter 17A,

1 as necessary or convenient to administer this chapter.

2 Sec. 6. NEW SECTION. 521B.106 Applicability.

3 This chapter applies to all cessions under reinsurance
4 agreements that occur on or after January 1, 2014.

5 Sec. 7. REPEAL. Sections 521B.1 through 521B.5, Code 2013,
6 are repealed.

7 Sec. 8. TRANSITION PROVISION — APPLICABILITY TO PRIOR
8 CESSIONS. Sections 521B.1 through 521B.5, Code 2013, shall
9 apply to all cessions under reinsurance agreements that occur
10 prior to January 1, 2014.

11 DIVISION II

12 COORDINATING PROVISIONS

13 Sec. 9. Section 508.33A, subsection 5, Code 2013, is amended
14 to read as follows:

15 5. A limited purpose subsidiary life insurance company
16 organized pursuant to this section shall be deemed to be
17 licensed to transact the business of reinsurance for the
18 purposes of section ~~521B.2~~ 521B.102, subsection 1, but may only
19 reinsure risks of its organizing life insurance company and
20 of affiliated companies. A limited purpose subsidiary life
21 insurance company organized pursuant to this section may, upon
22 approval of the commissioner, purchase reinsurance to cede the
23 reinsurance risks assumed by the limited purpose subsidiary
24 life insurance company.

25 Sec. 10. Section 515E.3A, subsection 5, Code 2013, is
26 amended to read as follows:

27 5. Letters of credit used by a risk retention group to
28 meet surplus requirements shall be clean, irrevocable, and
29 unconditionally issued or confirmed by a qualified United
30 States financial institution as defined in section ~~521B.4~~
31 521B.104, subsection 2. The beneficiary of each letter of
32 credit being used shall be the commissioner.

33 DIVISION III

34 EFFECTIVE DATE

35 Sec. 11. EFFECTIVE DATE. This Act takes effect January 1,

1 2014.

2

EXPLANATION

3 This bill contains new provisions that allow a domestic
4 insurer to cede reinsurance to an assuming insurer and receive
5 credit for such cession as either an asset or a reduction from
6 liability on account of the reinsurance ceded, provided that
7 certain requirements are met. The bill applies to all cessions
8 that occur on or after January 1, 2014, and repeals current
9 provisions relating to credit for reinsurance as of that date.

10 The bill allows a ceding insurer credit when reinsurance is
11 ceded to an assuming insurer that (1) is licensed to transact
12 insurance or reinsurance in this state; (2) is accredited by
13 the commissioner as a reinsurer in this state; (3) is domiciled
14 in, or in the case of a United States branch of an alien
15 assuming insurer, is entered through, a state that employs
16 substantially similar standards for allowing credit as the
17 standards applicable in this state; (4) maintains a sufficient
18 trust fund in a qualified United States financial institution
19 for the payment of valid claims of the ceding insurer; (5) is
20 certified as a reinsurer in this state by the commissioner of
21 insurance; (6) does not meet the foregoing requirements but
22 credit is allowed only as to the insurance of risks located in
23 jurisdictions where the reinsurance is required by the laws of
24 that jurisdiction; (7) even if the insurer is not licensed,
25 accredited or certified to transact insurance or reinsurance
26 in this state, the assuming insurer agrees in reinsurance
27 agreements to submit to the jurisdiction of a United States'
28 court and to receive lawful process through a designated
29 agent; or (8) even if the insurer is not licensed, accredited,
30 or domiciled in a state that employs similar standards, the
31 assuming insurer agrees to satisfy specified conditions in
32 a trust agreement. If an accredited or certified reinsurer
33 ceases to meet the requirements of the bill, the commissioner
34 may suspend or revoke the reinsurer's accreditation or
35 certification upon notice and hearing.

1 A domestic ceding insurer is required to manage its
2 reinsurance recoverables proportionate to its own book
3 of business. A domestic ceding insurer must notify the
4 commissioner if reinsurance recoverables from any single
5 assuming insurer exceed or are likely to exceed 50 percent
6 of the domestic ceding insurer's last reported surplus to
7 policyholders.

8 A domestic ceding insurer is also required to take steps to
9 diversify its reinsurance program. A domestic ceding insurer
10 must notify the commissioner after ceding, or if it is likely
11 to cede to any single insurer or group of affiliated insurers,
12 more than 20 percent of the domestic ceding insurer's gross
13 written premium in the prior calendar year.

14 The bill allows an asset or reduction from liability for
15 reinsurance ceded by a domestic insurer to an assuming insurer
16 not meeting the foregoing requirements of the bill, in an
17 amount not exceeding the liabilities carried by the ceding
18 insurer. The asset or reduction shall be in the amount of
19 funds held by or on behalf of the ceding insurer, including
20 funds held in trust for the ceding insurer, under a reinsurance
21 contract with the assuming insurer as security for the payment
22 of obligations under the contract, if the security is held in
23 the United States or, in the case of a trust, in a qualified
24 United States financial institution, as defined in the bill.

25 The security may be in the form of cash; a security
26 listed by the securities valuation office of the national
27 association of insurance commissioners, including securities
28 deemed exempt from filing and qualifying as admitted assets;
29 clean, irrevocable, unconditional letters of credit, issued or
30 confirmed by a qualified United States financial institution;
31 or a letter of credit meeting applicable standards of issuer
32 acceptability as specified.

33 The commissioner may adopt rules to administer the new
34 provisions.

35 The bill applies to all cessions under reinsurance

S.F. _____ H.F. _____

1 agreements that occur on or after January 1, 2014. Current
2 provisions that allow credits to domestic ceding insurers are
3 applicable to cessions that occur prior to January 1, 2014,
4 and are repealed January 1, 2014. Coordinating amendments are
5 made to internal references in Code sections 508.33A(5) and
6 515E.3A(5). The bill takes effect January 1, 2014.